

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BEFORE THE SECRETARY OF THE COMMONWEALTH

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Department of State

Commonwealth of Pennsylvania,  
Bureau of Corporations and  
Charitable Organizations

v.

Animals Can't Talk Rescue and Adoption, Inc.  
Respondent

Docket No.: 0105 -98-17

File No. 14-98-05950

**CONSENT AGREEMENT AND ORDER**

**PARTIES**

The Commonwealth of Pennsylvania, Department of State, Bureau of Corporations and Charitable Organizations ("Bureau"), by and through its prosecuting attorney, Michael J. Gennett and **Animals Can't Talk Rescue and Adoption, Inc.** ("Respondent"), by and through its attorneys, Karasek Law Offices and stipulate as follows in settlement of the above-captioned matter:

**JURISDICTION**

1. This matter is before the Secretary of the Commonwealth ("Secretary") pursuant to the Solicitation of Funds for Charitable Purposes Act ("the Act"), Act of December 19, 1990, P.L. 1200, No. 202, *as amended*, 10 P.S. §§ 162.1-162.24.

**REGISTRATION STATUS**

2. Respondent does not deny the truth of the following averments regarding its registration:

a. At all relevant and material times, Respondent conducted business in Pennsylvania as a charitable organization, as defined by the Act.

b. From 2009 to 2013, Respondent did not hold a registration to solicit charitable contributions within the Commonwealth of Pennsylvania.

c. At all relevant and material times, Respondent was not exempt or excluded from the requirements of the Act.

d. On or about May 15, 2014, Respondent became registered as a charitable organization with the Department of State, Bureau of Corporations and Charitable Organizations (Bureau) and holds certificate number 102305 issued by the Bureau.

e. Respondent's current registration expires on November 15, 2018.

f. The last known mailing address for the Respondent is 3325 Penn Estates, 1167 Woodland Drive, East Stroudsburg, PA 18301.

### **FACTUAL ALLEGATIONS**

3. The Respondent admits that the following allegations are true:

a. On or about March 3, 2014, the Bureau of Corporations and Charitable Organizations (Bureau) notified Respondent that it may be required to register pursuant to the Act and that it had thirty (30) days to respond by becoming properly registered or providing evidence that it is exempt or excluded from registering under the Act.

b. Respondent unintentionally failed to respond to the Bureau's March 3, 2014 letter.

c. As a result, on or about April 10, 2014, the Secretary of the Commonwealth (Secretary) issued an Order directing Respondent to Cease and Desist from soliciting contributions in the Commonwealth until such time as the organization responds to the Bureau and becomes duly registered or provides information confirming that it is exempt or excluded from the registration requirements of the Act.

d. Subsequent to the issuance of the April 10, 2014 Cease and Desist Order by the Secretary, Respondent unintentionally continued to solicit contributions in the Commonwealth through a "donate button" on their website that she instructed a volunteer to remove.

e. On or about May 5, 2014, Respondent submitted registration materials to the Bureau.

f. The registration materials included a Charitable Organization Registration Statement-Form BCO-10 for Respondent's fiscal year ending December 31, 2013.

g. The BCO-10 Form states that Respondent first solicited contributions from Pennsylvania residents on February 1, 2008.

h. The BCO-10 Form erroneously states that Respondent first solicited contributions from Pennsylvania residents and received gross contributions totaling more than \$25,000 on October 1, 2013, instead of a date in 2009. Respondent recognizes this factual error on her part.

i. A review of Respondent's Form 990-EZ, Return of Organization Exempt From Income Tax filed with the Internal Revenue Service ("IRS") from years 2009 through 2012 indicates that Respondent grossed over \$25,000 for the following years, in the following amounts:

i. 2009; \$68,669

ii. 2010; \$55,743

iii. 2011; \$52,260

iv. 2012; \$66,299

j. Based on the 990-EZ Forms filed with the IRS, Respondent grossed over \$25,000 yearly since 2009; thus, requiring registration with the Bureau.

k. On or about May 15, 2014, Respondent became properly registered with the Bureau as a charitable organization.

l. On or about May 16, 2014, the Secretary of the Commonwealth issued an Order Lifting the Cease and Desist Order from April 10, 2014.

#### **AGREED VIOLATIONS**

4. The parties agree that by engaging in the foregoing activities, Respondent committed the following violations of the Act at:

a. Respondent violated Section 15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), in that the organization continued to solicit contributions in violation of an Order issued by the Secretary of the Commonwealth.

b. Section 15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), by and through actions that were not in accordance with Section 5(a), 10 P.S. § 162.5(a), by soliciting contributions in the absence of an approved registration from 2009 until 2013.

**TERMS OF BOARD ORDER**

5. To address concerns raised by the Commonwealth and to resolve this matter on a compromise basis, the Commonwealth and the Respondent, intending to be legally bound, agree to the issuance by the Secretary of the following Order in settlement of this matter:

- a. Respondent violated Section 15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), in that the organization continued to solicit contributions in violation of an Order issued by the Secretary of the Commonwealth.
- b. Section 15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), by and through actions that were not in accordance with Section 5(a), 10 P.S. § 162.5(a), by soliciting contributions in the absence of an approved registration from 2009 until 2013.

**ADMINISTRATIVE FINE**

c. An **ADMINISTRATIVE FINE** in the amount of **THREE THOUSAND-DOLLARS (\$3,000.00)** is hereby levied upon Respondent.

(1) Respondent shall tender the full sum of the **ADMINISTRATIVE FINE** with the return of this executed Consent Agreement, **NO LATER THAN 4 JANUARY 2018;**

(2) Payment of the **ADMINISTRATIVE FINE** shall be by certified check, cashier's check, attorney's check, or money order issued by a usual, customary, and reputable issuer (e.g. U.S. Postal Money Order, Western Union Money Order, etc.).

(3) The instrument of payment shall be payable to the 'Commonwealth of Pennsylvania,' and shall be valid for a period of at least one hundred eighty (180) days.

(4) Respondent agrees that payment shall only be made by one of the methods indicated above and shall not be made by uncertified personal or corporate check.

**CASE SETTLED AND DISCONTINUED**

d. This case shall be deemed settled and discontinued upon the Secretary issuing an Order approving and adopting this Consent Agreement and upon the Respondent's successful completion of the requirements of this Order.

e. Nothing in this Consent Agreement and Order shall preclude the Prosecuting Attorney for the Bureau from filing charges, or the Secretary from imposing, disciplinary or corrective measures for violations or facts not contained in this Consent Agreement and Order.

**ADMISSIBILITY OF CONSENT AGREEMENT IN FUTURE PROCEEDINGS**

6. Respondent agrees that if Respondent is charged with a violation of an Act enforced by the Secretary in the future, this Consent Agreement and Order shall be admitted into evidence without objection in that proceeding.

**ACKNOWLEDGMENT OF NOTICE AND WAIVER OF HEARING**

7. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter, and to the following rights related to that hearing: to be represented by counsel at the hearing; to present witnesses and testimony in defense or in mitigation of any sanction that may be imposed for a violation; to cross-examine witnesses and to challenge evidence presented by the Commonwealth; to present legal arguments by means of a brief; and to take an appeal from any final adverse decision.

**ACKNOWLEDGMENT OF RIGHT TO ATTORNEY**

8. Respondent acknowledges that it is aware that it has the right to consult with, and be represented by, private legal counsel of Respondent's choosing and at Respondent's expense when reviewing, considering and accepting the terms of this Consent Agreement.

9. To the extent that Respondent is not represented by legal counsel, Respondent has knowingly elected to proceed in this matter without the assistance of legal counsel.

**WAIVER OF CLAIM OF COMMINGLING AND OTHER CONSTITUTIONAL CLAIMS**

10. Respondent expressly waives any constitutional rights and issues, such as commingling of prosecutorial and adjudicative functions by the Secretary or his counsel, which may arise or have arisen

during the negotiation, preparation and/or presentation of this Consent Agreement. This paragraph is binding on the participants even if the Secretary does not approve this Consent Agreement.

#### **NO MODIFICATION OF ORDER**

11. Respondent agrees, as a condition of entering into this Consent Agreement, not to seek modification at a later date of the Stipulated Order adopting and implementing this Consent Agreement without first obtaining the express written concurrence of the Prosecution Division.

#### **AGREEMENT NOT BINDING ON OTHER PARTIES**

12. This Consent Agreement is between the Bureau and Respondent only. It does not bind any other governmental or administrative entity of the Commonwealth of Pennsylvania, including any other bureau within the Department of State.

13. The Office of General Counsel has approved this Consent Agreement as to form and legality; however, this Consent Agreement shall have no legal effect unless and until the Secretary issues an Order approving and adopting this Consent Agreement.

#### **EFFECT OF SECRETARY'S REJECTION OF CONSENT AGREEMENT**

14. Should the Secretary not approve this Consent Agreement, presentation to and consideration of this Consent Agreement and other documents and matters by the Secretary shall not prejudice the Secretary from further participation in the adjudication of this matter. This paragraph is binding on the participants even if the Secretary does not approve this Consent Agreement.

#### **AGREEMENT DOES NOT PREVENT REFERRAL TO OTHER AGENCIES**


15. The parties acknowledge that other federal, state, and/or local agencies may have jurisdiction over the activities of, or representations made by, Respondent and its officers, directors, agents, employees or independent contractors. Nothing in this Consent Agreement or the Order based upon this Consent Agreement shall preclude representatives of the Bureau from referring any information or data produced as a result of this matter to any federal, state, or local agency or governmental unit having jurisdiction over the activities of Respondent or any officer, director, agent, employee or independent contractor of the Respondent.

**ENTIRE AGREEMENT**

16. This agreement contains the whole agreement between the participants; provided however, that the captions printed in the various provisions of this agreement are for ease of reading only and are not to be interpreted as forming any part of this agreement. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever concerning this agreement.

**VERIFICATION OF FACTS AND STATEMENTS**


17. Respondent verifies that the facts and statements set forth in this Consent Agreement are true and correct to the best of Respondent's knowledge, information and belief. Respondent understands that statements in this Consent Agreement are made subject to the criminal penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

  
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Michael J. Gennett, Esquire  
Prosecuting Attorney  
Department of State

  
\_\_\_\_\_  
For Animals Can't Talk Rescue and Adoption, Inc.  
Respondent

DATED: 2 JAN 2018

DATED: 12/5/17

  
\_\_\_\_\_  
Attorney for Respondent  
Karasek Law Offices  
Ronald J. Karasek, Esquire  
641 Market Street  
Bangor, PA 18013

DATED: 12/7/17



**Animals Can't Talk Rescue and Adoption, Inc.**

**DOCKET NO.: 0105-98-17**


**FILE NO. 14-98-05950**

**ORDER**

AND NOW, this 10<sup>th</sup> day of January 2018 the foregoing Consent Agreement is approved and the terms set forth in paragraph 5 are hereby adopted and incorporated herein as the Order of the Acting Secretary of the Commonwealth issued in resolution of this matter.

**THIS ORDER shall take effect immediately.**

**BY ORDER**

  
Robert Torres  
Acting Secretary of the Commonwealth

For the Commonwealth:

Michael J. Gennett, Esquire  
306 North Office Building  
401 North Street  
Harrisburg, PA 17102

For Respondent:

Karasek Law Offices  
Ronold J. Karasek, Esquire  
641 Market Street  
Bangor, PA 18013

Date of Mailing: 1-11-18